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**UNITED STATES DISTRICT COURT**

**DISTRICT OF ARIZONA**

Au-TOMOTIVE GOLD, INC.,

Plaintiff/Counterdefendant,

vs.

VOLKSWAGEN OF AMERICA, INC.,

AUDI OF AMERICA, INC.,

VOLKSWAGEN

AKTIENGESELLSCHAFT, AUDI

AKTIENGESELLSCHAFT, and

CONTINENTAL ENTERPRISES,

Defendant/Counterclaimants.

**Case No: CIV-01-162 TUC-FRZ**

**STIPULATION REGARDING  
SCOPE OF REMEDIES SOUGHT  
BY DEFENDANTS AND  
COUNTERCLAIMANTS AND RE SCOPE  
OF DISCOVERY SOUGHT  
BY PLAINTIFF**

*(Assigned to Hon. Frank R. Zapata)*

Plaintiff Au-Tomotive Gold, Inc. ("Auto Gold") and Defendants/Counterclaimants Volkswagen of America, Inc., Audi of America, Inc., Volkswagen AG, and Audi AG (collectively "Volkswagen") hereby stipulate that Volkswagen withdraws and waives its claim and prayer for an award of actual damages on Volkswagen's counterclaims asserted under the operative sections of the Lanham Act, *i.e.*, 15 U.S.C. §§ 1114, 1125, and 1117. Volkswagen does not waive any other remedies sought under Volkswagen's counterclaims against Auto Gold.

In addition to and in exchange for the removal of Volkswagen's request for an award of actual damages under Volkswagen's Lanham Act claims, the parties hereby stipulate and agree to certain limitations and reductions in the scope of discovery previously requested by Auto Gold in discovery requests served on June 1, 2009. Specifically, the parties stipulate that it will be acceptable to all parties for Volkswagen to provide responses to the following listed Interrogatories Relating To Damages dated June 1, 2009, as modified, and produce documents responsive to the following listed Requests for Production of Documents dated June 1, 2009, as modified served by Auto Gold, by March 19, 2010 (all definitions and instructions in the aforesaid discovery requests remain in effect):

Interrogatories

1. Interrogatory Nos. 2, 3, 4, 6 and 10 of Plaintiff's Interrogatories to Defendants Relating to Damages and Other Relief;

2. A disclosure of the date or approximate date of Volkswagen's first use in commerce, separately, of (i) license plates (ii) license plate frames and (iii) key chains displaying the trademarks at issue; and

3. A disclosure identifying Volkswagen's most knowledgeable former or present managerial employee(s) with knowledge of the circumstances, factors and/or reasons which caused Volkswagen to enter the U.S. market with license plates, license plate frames or key chains displaying the marks.

Requests for Production of Documents:

1. Documents responsive to Auto Gold's Request Nos. 2, 3, 4, 5, 11, 28 and 30 (excluding privileged content) of Plaintiff's Request for Production of Documents Relating to Damages and Other Relief, subject to any confidentiality designations applicable under the protective order entered in this matter as needed to protect the confidentiality of certain information and documents internal to Volkswagen.

2. All documents which refer to any adverse effect(s) upon Volkswagen's actual or potential sales or profits of license plates, license plate frames or key chains displaying the marks that was caused or contributed to by or attributed to Auto Gold's activities or sales of any of its products.

3. All documents including without limitation documents passing between Volkswagen and Cyrk, Budco or any other licensee which refer to any adverse effect(s) upon Volkswagen's actual

1 or potential sales or profits of license plates, license plate frames or key chains displaying the  
2 trademarks at issue that was caused or contributed to by or attributed to any of the following:

- 3 (a) pricing the product too high or not high enough  
4 (b) production problems  
5 (c) quality problems  
6 (d) shortages or back orders  
7 (e) inadequate assortment or variety of products  
8 (f) failure to offer a product or products  
9 (g) unsatisfactory or unappealing design or appearance  
10 (h) inadequate or unsatisfactory distributor or distribution system or method  
11 (i) sales or other activities of a competitor or competitors  
12 (j) any other factor identified as having caused or contributed to any adverse effect upon  
13 actual or potential sales.

14 5. Documents sufficient to disclose Volkswagen's annual revenues, profits and costs of  
15 each license plate, license plate frame or key chain displaying the marks during the period 1994 through  
16 2008.

17 6. All documents containing or referring to any communications Volkswagen had with  
18 Auto Gold or its representatives prior to 1999 which relate to license plates, license plate frames or key  
19 chains displaying the marks.

20 7. All dealer contact or visitor reports for any Volkswagen or Audi dealer identified by  
21 Auto Gold as its customer which contain or refer to sales-related communications about license  
22 plates, license plate frames or key chains displaying the marks.

23 DATED this 3 day of March, 2010.

24 **HOWARD, PHILLIPS & ANDERSEN, P.C.**

25 Gregory D. Phillips

26 Scott R. Ryther

27 Thomas R. Lee, Of Counsel

28 **GOOD LAW, P.C.**



Gregory E. Good


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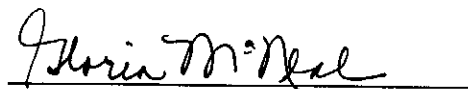
**CERTIFICATE OF SERVICE**

I hereby certify that on March 3, 2010, I electronically transmitted the above document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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